



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

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CC:INTL:BR2
GENIN-133794-02



Dear [REDACTED]:

This letter responds to your letter received by our office on June 24, 2002, requesting a ruling for the reinstatement of your foreign earned income exclusion. Your request does not include the necessary information or the user fee required to issue a ruling. However, after a review of your letter, we are providing the following general information.

Section 911(a) of the Code allows qualified citizens or residents of the United States living abroad to elect to exclude from gross income the foreign earned income and housing cost amounts of such individuals. Section 911(d)(6) provides that a taxpayer who has made either election may not deduct or credit foreign taxes paid or accrued with respect to the excluded amounts. Section 911(e)(1) provides that the elections apply to the taxable year for which made and to all subsequent taxable years unless the taxpayer revokes them. Section 911(e)(2) of the Code permits such a revocation, but provides that, without the consent of the Secretary, the taxpayer may not make another election before the sixth taxable year after the taxable year for which the revocation was effective.

Treas. Reg. § 1.911-7(b) sets forth a procedure for revoking a section 911 election. An election may be revoked by filing a statement with the income tax return or amended income tax return for the taxable year for which the revocation is to take effect. The revocation is effective for that year and all subsequent years. Although the regulations under section 911 of the Code prescribe a method by which a taxpayer may revoke an election to exclude foreign earned income, they do not purport to provide the exclusive method for revoking such an election. For example, an election may also be revoked by claiming a foreign tax credit for foreign taxes paid on foreign earned income. See Rev. Rul. 90-77, 1990-2 C.B. 183 (September 10, 1990)(attached).

From your submission, we are unable to determine whether you have made a valid revocation of your prior section 911 election. Returning to the United States to work does not automatically revoke your election. In the event that you have made a valid revocation of your section 911 exclusion, Treas. Reg. § 1.911-7(b)(2) provides that if you revoke an election under Treas. Reg. § 1.911-7(b)(1), and desire to reelect the

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same exclusion within the next five years, you must obtain permission by requesting a ruling. The Service may permit the taxpayer to reelect before the sixth year of the foreign earned income exclusion after considering all of the facts and circumstances.

If after considering the above general information you still desire a ruling, you must comply with the administrative procedures set forth in Rev. Proc. 2002-1, I.R.B. 1 (January 7, 2002) (attached). Generally, your ruling request must contain the following:

1. A complete statement of facts and other information
2. A statement of supporting authorities
3. A statement identifying information to be deleted from a copy of the letter ruling for public inspection
4. Penalties of perjury statement
5. User fee (see section 15 and Appendix A of Rev. Proc. 2002-1 for the fee schedule)

In your case, please confirm: (1) that was the year in which you made a valid section 911 election, (2) that was the year in which you made the revocation, and (3) that is the year for which you would like to reelect the exclusion. Also, please provide information regarding whether you claimed any foreign tax credits for foreign income taxes attributable to income excluded under section 911.

Please call at (202) 622-3840 with any questions.

Sincerely,
PHYLLIS E. MARCUS
Chief, Branch 2
Associate Chief Counsel
(International)

Enclosures: Rev. Proc. 2002-1
Rev. Rul. 90-77